

yesterday. They were asking us what we were going to do about getting appropriations bills passed, especially the military bill that affects our defense.

We have 13 appropriations bills. Two of them are defense related—military construction and defense.

We reported out of the appropriations subcommittee yesterday the largest military appropriations bill in the history of the country—some \$350 billion, approximately. The Military Construction Subcommittee reported it out. It came out of the committee, and we want to bring this to the floor. We have wanted to get it here for 2 weeks. They won't let us. The excuse now is forest fires.

The defense of this country depends on our doing these bills. Military construction is important for the fighting men and women of this country. We have 10 or 11 forest fires burning in Nevada right now. The people of Nevada want to go forward to help the service men and women of this country with military construction.

It is an excuse. It doesn't matter what we do over here to get a bill up. It doesn't matter what we do. It isn't quite right.

I renew my request that Senators FEINSTEIN and HUTCHINSON—the two managers of this bill—be allowed to bring this up under the time agreement that has been offered previously, which is 45 minutes for the bill and 20 minutes for Senator MCCAIN.

I would be happy to read it in its entirety. I have done that so many times that I almost have it memorized.

I ask unanimous consent that we be allowed to proceed under the terms and conditions of the previous unanimous consent request that I have made in this body, and that we be able to take the bill up as soon as the two leaders agree that it can be done.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BENNETT. Madam President, on the same basis as before, reserving the right for my leadership to examine it, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, I appreciate my friend from Utah, but having the leadership examine it, Senator LOTT has been out here on the floor saying he thinks it is the right thing to do.

It is too bad. I haven't changed a single word of the two requests I have made—one being the terrorism insurance bill going to conference, and the other simply allowing us to bring a bill to the floor. They won't allow us to do that. That is too bad for the country.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 812, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled between the Senator from Massachusetts and the Senator from New Hampshire or their designees.

Mr. KENNEDY. Madam President, just to state the obvious so all of our colleagues understand exactly where we are, the bill before the Senate is the Schumer-McCain Greater Access to Affordability Pharmaceuticals Act of 2001.

This legislation closes loopholes in the law that deny patients access to low-cost, high-quality generic drugs.

It is the most important single step the Senate can take to slow the galloping increase in the cost of prescription drugs, and make medicines more affordable for all Americans. I anticipate that other constructive measures to control the cost of prescription drugs may be offered as amendments to this underlying legislation when we get to the legislation.

We have been denied the opportunity, for the last 2 days, to get to this legislation, but I believe there will be an overwhelming vote in the Senate to say: Let's move ahead on this legislation.

To a very real extent, what the Senate does with this legislation is a key indication and a key test, I believe, of the Senate of the United States. We have a major problem and concern for families all over this Nation; and that is, the cost of drugs and the availability of drugs. We have carefully thought out solutions to these particular problems. There are different solutions to it, but this institution has the opportunity, over the period of the next 2 weeks, to resolve a public policy concern that is of real deep concern to families all over this Nation.

This debate is not about technicalities, although if you listen to those who have been opposed to bringing this legislation up, they would list the various technicalities. They talk about jurisdictions. They talk about everything but the substance of the facts.

The interesting point is, there has been prescription drug legislation before the Senate in the committees over the last 5 years. This is our first opportunity to address this issue on the floor of the Senate. We have a responsible measure now that is going to be voted on now as to whether we are going to address this. That is how we are going to be able to deal with the problem

which is called evergreening, which means that brand name companies can continue their patents on this and deny legitimate generic drug companies from getting into the market to produce lower cost quality drugs. And this is how we will be able to get to the issues of collusion between brand name companies and generic drug companies which also work to the disadvantage of consumers.

Our best estimate is that the savings, when this is scored, will be tens of billions of dollars, as much as even \$60 billion. We will wait until that report is in.

Can you say to parents, can you say to children, can you say to families across this country, we can save you \$60 billion, and yet our Republican friends refuse to let us get to this issue? We will get to this issue. It is of vital importance.

I look forward to continuing this debate.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. DURBIN. I ask the Senator, is it not true that in the last 2 days we have really failed to seize an opportunity to move this bill forward? Have we not been tied up on the floor of the Senate with tactics from those who oppose prescription drug reform, to slow down the Senate debate, to try to stop us from passing this legislation before the August recess? Is it not true that we are now going to have a vote this morning to finally bring this to an issue so we have Members on the Record—Democrats and Republicans—and maybe once and for all we can see who is willing to stand in the path and who is willing to move forward when it comes to the issue you raised this morning?

Mr. KENNEDY. The Senator is absolutely correct. The measure that is before us passed the committee by a 16-to-5 vote, including five Republicans. It was bipartisan in nature. That is why it is difficult for us to understand why our Republican friends—because the objections were not from the Democratic side; the objections were all from the Republican side—why they would object to this, when five of their members—and I think we have more support from other members of the Republican Party who support this—why they would object to us, the Senate, considering this legislation, and other measures that are going to reduce the costs of prescription drugs for families.

I say to my friend from Illinois, I think the Senate will respond overwhelmingly and say: Let's get on with its business. But I regret the fact it has taken us 2 days in order to move this process forward.

Mr. DURBIN. Will the Senator yield for another question?

Mr. KENNEDY. I will.

Mr. DURBIN. On the substance of the issue, when you use the term "generic drugs," that has a lot of connotations. But is it not true that a drug such as

Claritin, made by Schering-Plough, which is for allergies, widely advertised across the United States, when the patent on that drug expires, other drug companies can make the Claritin formula and sell it? It is exactly the same as the prescription drug that has been sold under patent for years and years, and that what you are talking about is making certain that kind of drug, generic drug, at a lower cost, is available to consumers across America so they can cut their drug bills and still have the same drug, which, under patent for years and years, was advertised as the very best for allergies and problems such as that?

Mr. KENNEDY. The Senator is quite correct.

I welcome the fact that the Senator has pointed out these generic drugs are effectively and actively the bioequivalence of the other brand name drugs. We will deal with those issues. They are effectively the same but at a very reduced cost.

I am glad to yield because I see my colleagues in the Chamber.

Madam President, we have how much time remaining?

The ACTING PRESIDENT pro tempore. Nineteen minutes.

Mr. KENNEDY. Nineteen minutes. So why don't I yield 4 minutes to the Senator from Michigan and do the same for the Senator from North Carolina. And other Senators want to speak.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank our leader, the Senator from Massachusetts, who is such a stalwart and passionate advocate on this issue.

I wish to respond to one of my colleagues as to one of the reasons why I think this bill is being held up. I think it is being held up because it is not supported by the pharmaceutical industry.

We know there are six drug company lobbyists for every Member of the Senate. It is clear they would prefer the House plan, which they helped to write. I would, once again, share with my colleagues a quote that was in the Washington Post when the House plan was passed:

A senior House GOP leadership aide said that Republicans are working hard behind the scenes on behalf of PhRMA [the pharmaceutical lobby] to make sure that the party's prescription drug plan for the elderly suits drug companies.

I believe the reason the bill is being held up is that, in fact, our prescription drug plan does not suit drug companies. Our prescription drug plan is written for the seniors and the disabled of America.

Our plan for lowering prices through the generics bill and through other options, to increase competition, is to make sure that prices are lower for everybody. The small business, which has premiums skyrocketing, and which has difficulty affording health care coverage for its employees, would see a major change as a result of our efforts to lower prices and create more com-

petition. The manufacturers in my State would see decreases as well.

So, in fact, what we have are two distinct views of how to proceed. One, as was indicated in the paper, is a plan for the elderly that suits drug companies. We will have various versions of it on the floor. But I would argue that those fighting proceeding to a real Medicare plan are doing so because our plan does not suit the drug companies.

One of my major concerns is there is so much money that is going into this effort to promote the House plan—the drug company plan. What does the drug company plan do in the end analysis?

When we look at this, they are asking the senior citizens of our country, up front, to pay a \$250 out-of-pocket deductible before they get any help. Then, out of the first amount of money, the beneficiary would pay \$650 to get help with \$1,100. But then the beneficiary would continue to have to pay while they have a gap in coverage. They would pay \$2,800 when they received no help in the middle here, as shown on the chart, in order to get some catastrophic help at the end.

So what does this mean? It means, out of pocket, the average beneficiary will pay \$3,700 to get \$4,800 worth of help.

I am not that great on math, but I would suggest that, in fact, the \$3,700 out of pocket for \$4,800 is not that great a deal. I would suggest it is not that great a deal for the average person.

I have read a number of stories in this Chamber; one last night was of a gentleman who had an \$800 a month income and his prescription drugs were \$700 a month. This will not help him. This will not help the individual, the average individual who is struggling to pay their bills versus getting their medicine every day.

We have a better plan, a plan that will, on average, pay for 65 percent of the bill, which is a good start. It is a good step forward. It would not have a deductible. It would be a voluntary plan that would make sense and lower prices.

I realize my time is up, but I would like to also join with my colleagues in advocating that we get on with the business of real Medicare coverage and lowering prices for everyone.

Thank you.

Mr. KENNEDY. Madam President, I yield 4 minutes to the Senator from North Carolina and 4 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, this is a very simple proposition. Our friends on the other side of the aisle who oppose this prescription drug benefit largely oppose it because they say it is too expensive; we can't pay for it. They propose a prescription drug benefit that leaves lots of senior citizens behind.

The problem is, when we respond with, No. 1, a more comprehensive pre-

scription drug benefit that, in fact, protects all senior citizens and, No. 2, with a real and meaningful proposal to bring the cost of prescription drugs under control so that we can, in fact, afford a comprehensive prescription drug benefit for all senior citizens, that will work for all senior citizens, then they also block us on that front. This makes no sense. There is no logic to this.

What we are saying is we want to provide a real and meaningful prescription drug benefit, No. 1; No. 2, in order to afford it, we have to do something about the cost of prescription drugs.

The costs of prescription drugs have been going up anywhere from 10 to 20 percent a year, way above the cost of inflation. We have to do something about that.

One of the issues Senator SCHUMER and Senator MCCAIN have worked very hard on is legislation to close the loopholes in the patent system that allow brand companies to keep a patent on a drug when the generic ought to be able to enter the marketplace. We know the way this works. The brand name company has a patent. As soon as the generic is allowed to enter the marketplace, the cost of the medicine goes down so that not only senior citizens but all Americans are able to afford it.

What we are doing and what they did in that legislation was to close loopholes that allowed brand name companies to keep generics out of the marketplace automatically for 30 months, if, in fact, a generic tried to enter the market at the time that a patent was about to expire.

What we have done is worked to close those loopholes so we get generics into the marketplace, so we have real competition and, most importantly, so we lower the cost of prescription drugs for all Americans and so we have a prescription drug benefit that we can, in fact, afford.

Senators MCCAIN and SCHUMER actually had a very good bill. It dealt with the abuses that were occurring, situations such as a brand name company had a patent that was about to expire. They would come in and say: We are entitled to a new patent because our pills have to be in brown bottles; or we are entitled to a new patent because our pills have two lines on them, as opposed to one, for scoring when you have to cut the pills—no innovation, no creativity, no new medical benefit. This is not the reason the patent system was created. It is not the reason the original legislation, the Hatch-Waxman legislation, back in 1984, was created.

What has happened is, the brand name companies have found a way to game the system, to exploit the system. The problem is, the people who pay the price of that are not the generic companies. The people who pay the price are Americans who have to go buy their medicine at the drugstore because when the generic can't get in the market, their cost stays up. And the

only people who benefit are the brand companies that keep their patent, and their profit, as a result, stays much higher.

What we have done, Senators MCCAIN and SCHUMER have done, was help close the loopholes. When that legislation came before our committee, the Labor Committee, the HELP Committee, we worked, Senator COLLINS and I, in a bipartisan way, along with a number of our colleagues on both sides of the aisle, to address some of the concerns that others had about the McCain-Schumer bill. I actually think their bill was a very good bill and the work they did was very good.

We dealt with it in a responsible way, found a bipartisan compromise. That is the legislation that is now on the floor of the Senate. It got the vote of five Republicans in committee. It is the kind of legislation that could actually do something about the cost of prescription drugs so we can afford a real and meaningful prescription drug benefit for all senior citizens in America.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. I thank my colleague from Massachusetts and my colleague from North Carolina.

We have all been working together on this issue, as the Senator from North Carolina has said. It has been bipartisan—Senator MCCAIN and myself and then he and Senator COLLINS as well. The reason we are all coming together at this moment is a very simple one: These wonderful drugs that make people live longer and make people live better are just getting so darn expensive that most people can't afford them.

It is not just senior citizens, although it is certainly them. What about a family who has a child with a disease and they need that drug and the man works for a small business, the wife maybe works at home; they can't afford this drug for their child? Maybe a year from now it might be affordable, 6 months, because the generic is available. Then the pharmaceutical company goes and hires their lawyers and plays some trick and says the price is going to stay at \$250 a month instead of \$70 a month. What does that family think?

We have an urgency here. This is not just a political game. This is not just rhetoric. This is not just a stick to beat one party up or the other party. This is what we are all about—life. Our job is to make sure people can get these wonderful drugs.

I have no relish beating up on the drug companies. I think they have done great things, but unfortunately, as the Senator from Massachusetts said last night, they have lost their way. The generic drug proposal we are talking about puts them back on track. It says, instead of spending your time innovating patents, spend your time innovating drugs. Instead of going to Harvard Law School to hire people to come

up with new legal tricks, go to Harvard Medical School and come up with the best researchers. For years this system has worked so well, but it has begun to get off track.

I make a plea to people on both sides of the aisle—I make a plea to the drug industry—get back with it. Go back to your noble mission of creating these wonder drugs that save people's lives, that avoid people having to go to the hospital and needing an operation.

The Schumer-McCain bill does that. It doesn't take away any of the incentives, the profits. We are a free market system. When you innovate that drug, you will make some money. But then don't, 15 years later, say: I have a new idea. I will make a blue pill red; I want another 15 years. I have another idea, I am going to say this drug is good for tennis elbow as well as pancreatitis; I want another 15 years, not only for tennis elbow but for the pancreatitis as well. That is what we are against here.

It is no longer that technical. When the Senator from Arizona and I started on our journey, people said: This is a very technical bill to which no one will pay attention. But now people realize what it is all about. It is about lowering costs dramatically.

By the way, it doesn't just lower the cost to the citizen. That is our paramount goal, to the average citizen. It lowers the cost to American business which has drug plans. Why is General Motors for this plan; why are so many corporate leaders for this plan? Why, when the pharmaceutical industry went to them and said, stop supporting Schumer-McCain, did they say: We can't for the very simple, self-interested reason, it means hundreds of millions of dollars to them? Why are State governments for this? Go to your counties, your State, and ask them what their biggest cost is. It is Medicaid.

What is the biggest cost within Medicaid? Whether it be Utah, Massachusetts, or New York, it is the rising cost of prescription drugs. This will limit it.

I urge that we not try to fight the Schumer-McCain bill but we, rather, try to build on it with some of the other proposals.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have enjoyed being here this morning and hearing the debate. When I came to the Senate, I was interested in health care, anxious to do what I could to improve health care in this country, and recognized rather quickly that one of the major things that has happened in this country is that technology has long since outstripped, overcome, and ignored legislation.

I tell town meetings, among people who talk to me about Medicare, Medicare is the best Blue Cross Blue Shield fee-for-service indemnity plan that we could devise in the 1960s, frozen in time. Legislation does not allow flexibility; legislation freezes things. And

we have a Medicare system that, frankly, makes little or no sense in the face of the way we practice medicine today.

In the 1960s, when Blue Cross Blue Shield laid down their fee-for-indemnity plan, which Congress basically embraced and froze in legislation, prescription drugs didn't make much of an impact. The big financial challenge in those days was the cost of going to the hospital. So a plan was frozen in place that said, We will reimburse you for going to the hospital and, today, 40 years later, the way Medicare is structured doesn't make any sense. People take pills rather than having an operation, but the pills, even though they are many times cheaper than the operation, are not reimbursed, whereas the operation would be.

There is a disincentive to practice intelligent medicine under Medicare. So to suggest that any rational individual looking at our present health care system does not support a prescription drug solution to our present dilemma is to misstate the facts. Everybody who looks at this, who has any understanding of the system, is in favor of a prescription drug benefit for Medicare. All right. We are all in favor. Let's do it. It is a little like someone having a medical condition back in the 1700s and turning to a physician and saying: We are all in favor of medical assistance, let's do it. And then the physician, acting on the conventional wisdom of the time, says: Bring in some more leeches, because that is the accepted technology.

Unfortunately, that point of view would cause someone who had greater knowledge to say: Don't seek medical assistance under this circumstance. Do something different.

Oh, no, we have to act quickly, and the prescribed method is to bring in some more leeches. So let's act quickly on this. The prescribed method is to simply attach a prescription drug benefit to the existing Medicare system and not pay much attention to any of the side effects.

I was here in 1993 when we debated health care almost exclusively on this floor. It was the raging issue through the end of 1993 and through almost all of 1994. I was here when the effort to reform our health care system died on this floor. A lot of people think it was voted down. It was not voted down. It simply died of its own weight.

George Mitchell, who was the majority leader at the time, despairing of the committee's not being able to produce a bill that might pass, took the whole process into his office and he produced, without any committee background, the Mitchell bill.

I was part of the effort to defeat the Mitchell bill. We met twice a day in Senator Dole's conference room. We met under the leadership of the then-ranking member of the Senate Finance Committee, Senator Packwood from Oregon, who understood this issue about as well as anybody, and we laid out the traps that we were setting for Senator Mitchell.

Quite frankly, it was not very difficult. His bill was filled with so many problems and so many challenges that we didn't have to be very expert or very careful to be able to shoot it down. As we would raise one issue after another, Senator Mitchell finally withdrew the bill and simply let it die. It was never voted down. It died of its own weight.

During that debate, Joe Califano—who served on the White House staff with Lyndon Johnson and was appointed Secretary of Health, Education, and Welfare, and who some have called the father of Medicare—wrote an editorial. I would like to quote from the Washington Post of August 18, 1994. He was urging caution based on his experience. Here is the relevant paragraph:

History teaches two lessons about Federal health care reform: It will cost more than any reasonable estimate at the time of enactment, and it will provoke a bevy of unintended consequences. The danger is that Congress may repeat history with a vengeance.

Picking up on Secretary Califano's two points—it will cost more than any reasonable estimate at the time of enactment and it will provoke a bevy of unintended consequences—let's talk about cost. I have heard this morning that we can solve the problem of cost by—if I may quote a colleague—"closing a few loopholes." We can solve the problem of cost by telling the drug companies to hire fewer lawyers. We can solve the problem of cost by preventing the pharmaceutical industry from having 30 months more of control on the prices of their original drugs.

For just 30 months more, they are somehow raising the price to the point that it is costing us so much money that we cannot afford this bill. And if we can just change that 30 months—just close that one little loophole—suddenly we will have enough money to pay for the whole thing.

Mr. SCHUMER. Will my colleague yield?

Mr. BENNETT. Yes.

Mr. SCHUMER. I thank my friend from Utah. He is always gracious in the spirit of debate. I ask two questions. First, does the Senator realize the generic drug is usually about a third of the cost?

Mr. BENNETT. I realize that. I am talking about loopholes.

Mr. SCHUMER. Second, not only is it one 30-month extension, many of the pharmaceutical companies line them up—30 months, 30 months, 30 months. So after they have made their rate of return, which they should, and I admire them for making these drugs, but I was asking the Senator if he realizes that the new practice is not just to have one automatic 30-month extension when you change the color of the bottle, but to pile them on and to have the patents extend long beyond the 20 years that was expected.

Mr. BENNETT. I realize the battle between the original creators of the

patent and the generic drug companies has been going on ever since generic companies were formed, and that one group will always try to get the advantage over the other, and that a number of tactics are going on. I also realize the generic companies have been successful far more than many of the original companies would like, and to step in that battle and legislate that the generics will always win is fraught with all kinds of possibilities and all kinds of unintended consequences that Secretary Califano warned us against.

The Senator from New Jersey wishes to ask a question.

Mr. GREGG. Well, it is New Hampshire, but we are all in the East.

Mr. BENNETT. I am often considered the Senator from Idaho. So that is fair.

Mr. GREGG. I simply ask the Senator if he is aware that under the bill brought forward to us, as amended, the 30-day rolling exclusivity would be able to continue to roll over, that under this bill it is potential—and in fact likely—that second and third 30-day periods could be driven under this bill—and even fourth 30-day periods. There was actually language that would have eliminated that opportunity completely.

Mr. BENNETT. I was not aware of that. If I may, reclaiming my time, make this comment about this whole circumstance, one of the reasons I was unaware of that is because I am not a member of any of the committees that deal with this. I often thought that since I was not a member of the committees, I would not have an opportunity to be involved in the details of the bills. But I have discovered in this circumstance that not being a member of the committee is not a barrier to being involved, because the committee is not writing this legislation. The committee has been dismissed. The members of the committee who have expertise, the committee staffs that have been working on this for the 5 years that the Senator from Massachusetts referred to, have been dismissed. Their expertise is being ignored.

The majority leader has taken the bill into his office, and he has created his own bill, much like Senator Mitchell did back in 1994. I trust it will have the same effect. The Mitchell bill, however well-intentioned, hit the floor with all of the flaws in it that could have been worked had it had a proper committee process.

I submit that this bill is hitting the floor with this process. It is hitting the floor with all of the same potential so that Senators, such as the Senator from New Hampshire, who has expertise in this area, have been frozen out. Senators in the Finance Committee who have tremendous expertise in this area have been frozen out. And the majority leader has taken this all to himself.

That means all of us who have gaps in our knowledge are suddenly confronted with the responsibility of dealing with this issue without a com-

mittee report, dealing with this issue without the guidance of ranking minority concurrent opinions. We are just faced with this on the floor, and all of us, willy-nilly, have to do our best to do our homework.

I apologize to the Senator from New Hampshire for not knowing the specific he raised, but I point out that this is to be expected under the circumstances with which we are presented in this bill.

Mr. President, the phrase that is used over and over with respect to medicine goes all the way to the Hippocratic oath, which says: Do no harm. That is a more specific way of summarizing what Joe Califano warned us about in 1994, the unintended consequences and the cost.

The Senator from Massachusetts used the figure \$60 billion in savings. I would like to see the background for that figure. He said it has not been scored yet, but I am sure he has some basis for coming up with that figure, and I do not challenge it. I am being told that the bill he would prefer to have passed, which also has not been scored, will eventually cost \$1 trillion over a 10-year period—\$1 trillion. Somehow, \$60 billion does not get us to \$1 trillion.

I cannot intuitively think that closing some loopholes in an area where there has been intense competition and litigation for years is somehow going to give us such dramatic savings that we can pay for this bill in a way that will not end up hurting the senior citizens and hurting the people at the bottom of our economic ladder.

Let me make this one additional point because I see one of my colleagues here, the Senator from Pennsylvania, who would like to speak further.

For those who say cost is important but health care is more important, that cost is important but compassion is the most important thing, and we should not let cost stand in the way of our helping our least fortunate citizens, that is an emotion with which I totally identify. That is a feeling that all of us can accept and agree with. But the fact—the cruel fact—is that if the economy is in trouble, if the Government is feeding inflation through tremendous deficits and soaring expenditures, the people who get hurt the most in those difficult economic times are the people at the bottom.

Conversely, in the period we have just gone through when everything was soaring and doing well, someone asked Alan Greenspan: Who benefited the most from this boom?—thinking he would say it was the Donald Trumps and the Bill Gates of the world who benefited the most from the boom.

He said: Without question, the evidence is overwhelming that the people who benefited the most from the sound economy were the people in the bottom quintile; that is, the people in the bottom fifth had the greatest benefit in terms of what happened to make their lives better.

When we talk about costs, we are not being cold hearted. We are not being green-eyeshade accountants. We are recognizing there is an element of compassion that redounds to the benefit of the people at the bottom if we keep our finances under control, if we see to it that the Government is properly funded and properly financed, and we do not allow expenditures to run willy-nilly out of control. That is part of compassion. That is part of taking care of the least fortunate, and that is a debate we are having on this floor now that some would like to wave aside.

I reserve the remainder of the time and yield to Senator GREGG, as he takes over the leadership spot, but yield to the Senator from Pennsylvania.

Mr. GREGG. If the Senator will yield a second, I want to clarify. I wandered in the middle of the discussion and misunderstood the issue. I believe the Senator from New York is correct in his assessment of the bill on the 30-month issue. It was the 180-day rule to which I was referring.

Mr. BENNETT. So I was correct in saying I did not understand the Senator's point.

Mr. GREGG. Yes, that is correct. That happens to people from New Jersey.

Mr. BENNETT. I will be more than happy, Mr. President, to turn the control of the time over to the Senator.

Mr. GREGG. I yield the remainder of our time to the Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. There are 7½ minutes remaining for the Senator from Pennsylvania; 5 minutes 40 seconds for the Senator from Massachusetts.

Mr. SANTORUM. Does the Senator from Massachusetts want to go or have me finish the time?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to make sure we understand, No. 1, this vote did not have to occur. We saw woeful crocodile tears today about how we have to have this vote today and be delayed 2 days. The Senator from New Hampshire yesterday afternoon agreed to vitiate this vote and agreed to proceed to the bill. We could be discussing amendments right now if we wanted. We could have been discussing amendments last night. When I was on the floor at about 5 o'clock, we could have been debating amendments, but we were debating whether we would allow this vote to be vitiated or not and agree to the motion to proceed.

I have to question how genuine the concern is about having this delay of 2 days when we could have been on the bill yesterday and we could be amending the bill as we speak. That is No. 1.

No. 2, let's understand, the underlying bill is the discussion, which has to do with the generics versus the main line pharmaceutical companies, and

how we deal with the issue of reimportation of drugs is going to be an issue—there will be other issues—related to prescriptions. But this is a vehicle for a much broader and I think to the American public more important debate, and that is how we are going to provide prescription drugs for seniors. That is what the majority leader has said this debate is going to be all about that we are going to move to very quickly once this motion to proceed is agreed to, and I believe it will be unanimous.

Let's understand the game that has been set up. The majority leader has set up a procedure on the floor of the Senate to guarantee—and I am underlying that word—to guarantee that no bill to provide prescription drugs would pass the Senate. I do not say that lightly. I use the word "guarantee." We have 100-percent assurance under this procedure that no bill to provide prescription drug coverage will pass the Senate. Why? Because in last year's budget agreement—I say last year's budget agreement and you say: Senator, what about this year's budget agreement? We do not have a budget agreement for this year. We have no agreement of the budget that provides for money to be set aside for a Medicare prescription drug benefit.

So we have to go to last year's budget agreement to see what that provides for with respect to Medicare and prescription drug benefits.

What does that provide for? Two things. No. 1, any bill that is not reported from the Finance Committee to the floor of the Senate on Medicare prescription drugs will have a 60-vote point of order against it. What does that mean? That means if we had a \$10 bill, a bill that costs \$10 to the American Treasury, on the floor of the Senate it would be subject to a budget point of order. It would have to have 60 votes.

So what the Senator from South Dakota, the majority leader, has done, is he has required every single Medicare prescription drug bill to get 60 votes. The other budget provision says it had to be under \$300 billion.

Now, what we are hearing is that there is some outrage that we have delayed this all of less than a day actually, and that the majority wants to go forward and move their prescription drug bill. Fine. Let's look at this prescription drug bill. This is a bill they could not get through committee. Had they been able to get it through committee, I am sure they would have allowed Senator BAUCUS to mark up this bill and go through committee, but they could not get it through committee. So they bypassed the committee, thereby assuring, as the Senator from New Hampshire said, mutual assured destruction. This is a partisan exercise.

So the bill will come to the floor. This is a bill that I have heard out in the hallways is going to cost upwards of a trillion dollars. Nobody has seen

this bill. This is the largest expansion of entitlements in the history of this country, and no one has seen the bill. It is going to cost hundreds of billions, potentially a trillion dollars, over the next 10 years; it has not had one hearing in committee and it has not been marked up in the committee. What we are expected to do in the Senate is somehow agree to pass this bill within, according to the majority leader, the next 7 days. Within 7 or 8 days, we are going to pass a prescription drug bill that no one has seen, that nobody knows how much it costs—it could cost up to a trillion dollars—that no hearing has been held on, that no markup has been done on.

If we are serious about getting a prescription drug benefit, this is not the way to present this to the Senate. What this is, pure and simple, is politics. This is about the majority leader being interested in setting up a procedure that will assure that no bill passes so they have the issue of saying, see, we wanted to give you all these wonderful things, we wanted to give you all these benefits, give you Cadillac this and Cadillac that, and these lousy Republicans do not want to let you have it.

I suggest that we have three proposals on this side of the aisle on which we would love to get votes. Senator SMITH from New Hampshire has one; Senators HAGEL and ENSIGN have one; and then there is the tripartisan bill, all of which will move the ball down the field substantially when it comes to providing prescription drug benefits for seniors, all of which I believe could pass the test of the budget, which is getting through the Finance Committee and being under \$300 billion in expenditures.

That is what we should be doing. We should be trying to pass a bill that gets through the Senate so we can get it to conference, work with the House, and get a drug benefit by November, not get a political issue by November.

This process has been set up to fail. This process has been set up to fail so some believe they will get political advantage by doing so. I want everybody to understand that when next Friday rolls around and we are at loggerheads because nobody can get 60 votes on a budget point of order and everybody is now gnashing their teeth and wringing their hands and saying, oh, woe is us, we could not get a bill done, we failed the American public, the Republicans would not let us pass our bill, or whatever the case may be, understand the template has been set for that today. The template has been set for that today by bringing a bill to the floor which requires 60 votes as a budget point of order. Once that template was set, once the majority leader decided to bypass the Finance Committee, a Finance Committee that, without question, could pass a bill—there is no question they could pass a bill, but again the majority leader, as he did with trade, as he has done with a whole

lot of issues with respect to the Finance Committee, has basically pushed the Finance Committee aside.

I do not know whether he does not trust the committee, whether he does not trust the leadership. I do not know what it is, but the Finance Committee has pretty much been made irrelevant over the past several months by the majority leader. What we have as a result of that is a procedure that is doomed to failure.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I understand we have 5 minutes 40 seconds left. Is that right?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. What I would like to do is give 1½ minutes to the Senator from New York and 3 minutes to the Senator from New Jersey.

Mr. SCHUMER. I yield my remaining time. Senator GREGG corrected the time. I would be happy to yield my remaining time.

Mr. KENNEDY. I yield 4½ minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise to speak about the unspeakable, as far as I am concerned. I picked up the paper this morning and I read House GOP leaders fight audit plan, an audit plan that passed this body 97 to 0.

There are rumors circulating out among those on the Hill that a procedural process called blue-slipping has been applied to the Senate-passed corporate responsibility act, more formally known as the Accounting Reform and Investor Protection Act, which our Nation is crying out for, in response to corporate malfeasance and the deterioration of the quality of financial reporting corporate governance in this Nation.

If we have ever seen a situation where politics is an overwhelming necessity, where the politics of a given issue is undermining the needs of the American people, investors across this country, retirees, people who are dependent on our financial system having integrity and how it responds to information presented from companies, it is demonstrated by these actions with regard to trying to stop or hold back something that is absolutely essential for making sure that our economy and our markets function properly.

In case people had not noticed, we have lost over \$2.5 trillion in our financial markets this year alone with respect to what is going on in corporate governance, corporate malfeasance. Yesterday we heard a positive statement out of the Chairman of the Federal Reserve Board about the underlying fundamentals of the economy. Productivity is up; inflation is down. There is plenty of reason for why our market should be moving forward, why the marketplace should feel comfortable with itself, but what is standing in its way is the integrity of cor-

porate responsibility, the integrity of our financial statements, the integrity of how our marketplace works. We are refusing to deal with this on a straightforward and expeditious manner.

The President has asked for it to be placed on his desk in less than 3 weeks, and now we are being stopped cold dead by the House leadership.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. CORZINE. Absolutely.

Mr. SCHUMER. I could not agree more with what my colleague from New Jersey has said. We passed a 31(e) bill, which reduced taxes on corporate transactions but was supposed to fund the SEC. We could not even get an authorization to have pay parity for the SEC to hire new people. That is one of the reasons we are in the pickle we are in.

So I ask my colleague from New Jersey: Is this not the same type of thing where they say, oh, yes, we are for enforcement, but they do not put any money in to either get enforcers or the quality of enforcers that we need?

Mr. CORZINE. The reason we have had responses like we have had in the marketplace in the last 2 weeks is that people are hot on rhetoric and low, low, low with regard to results and doing anything that is proper action to deal with the problem.

Mr. SCHUMER. If the Senator will continue to yield, the best place we can have action is in the bowels of the agencies where they find the wrongdoing; capable people, Government workers, they find it, nail them, so it does not happen again. Am I wrong about that?

Mr. CORZINE. The Senator is certainly right.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. CORZINE. I hope we take real action soon to stop this crisis of confidence from continuing.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen seconds.

Mr. KENNEDY. Vote for cloture and get on with debate. This is an important first step that can take us on the road to lower prices and better availability of drug coverage for people who need it in our country.

I understand under the procedure the yeas and nays are automatic; is that correct?

The PRESIDING OFFICER. That is right.

Mr. KENNEDY. I understand all time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the

motion to proceed to Calendar No. 491; S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, Hillary Clinton.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 99, nays 0, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the motion to proceed is agreed to and the clerk will report the bill.

The assistant legislative clerk read as follows: